REMARKS

The Office Action mailed September 19, 2007 has been received and reviewed. Prior to the present communication, claims 1-11, 13-22, 25-27, and 29-31 were pending in the subject application. All claims stand rejected. Applicants respectfully request reconsideration of the present Application. Claim(s) 1, 13, 25, and 29 have been amended herein. Support for the amendments may be found in the Specification, for example at paragraphs [0005], [0033], [0036], [0052], and Figure 9. No new matter has been introduced by way of the amendments herein. Reconsideration of the above-identified application in view of the following remarks is respectfully requested. Claims 1-11, 13-22, 25-27, and 29-31 are pending and are in condition for allowance.

The office action in response to the arguments filed on 12/19/2007 states that *the word " proximity" is a term of degree and the phrase "list of participating devices based on proximity to a first participating device" is broadly interpreted as being devices in within a logical proximity, where the logical proximity, for instance, are devices in the same network.* The office action also states that *the word "nearby" is a term of degree and the phrase "nearby device for each device" is broadly interpreted as devices that are a part of the network.*

Applicants have amended claims 1, 13, 25, and 29 to further clarify the use of the words "proximity" and "nearby". Support for the amendments can be found in paragraph [0005]. The American Heritage Dictionary of English Language, Fourth Edition defines "proximity" as "[t]he state, quality, sense, or fact of being near or next; closeness". Applicants in paragraph [0005] stating the need for this invention, explains that knowledge of physical space and proximity have not been adequately utilized (prior to present invention) to present information.

Claims 1, 13, 25, and 29 has been amended to clarify proximity in physical space as closeness in physical space.

The American Heritage Dictionary of English Language, Fourth Edition defines "nearby" as "located a short distance away; close at hand". With the support of paragraph [0005], claims 1, 13, 25, and 29 have been amended to clarify that the list recited in said claims, include devices detected to be close in physical space.

Rejections based on 35 U.S.C. § 102(e)

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-8, 10-11, 13-20, 22, 25-26 and 29-31 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,675,196 to Kronz et al. (hereinafter the "Kronz reference"). As the Kronz reference fails to describe, either expressly or inherently, each and every element as set forth in the claims as amended, Applicants respectfully traverse these rejections, as hereinafter set forth.

Independent claim 1, as amended herein, recites a system for facilitating interaction between a device immediate environment. The system includes a detection module for automatically detecting proximity of a participant within the device immediate environment, wherein proximity of a participant within the device immediate environment is close in physical space, a dynamically updated list of detected nearby devices within the device immediate

environment for each device, wherein the list of detected nearby devices maintains a record of devices detected by the detection module to be close in physical space and their locations, and a user-configurable authorization module for authorizing the device to adjust a device user interface in a pre-determined manner in response to the detection of the participant.

The Kronz reference, on the other hand, describes a logical protocol and a method for facilitating communication between various electronic devices and the sharing of features, functionality and information between the devices. *See, Kronz reference* at col. 1, lines 57 – 60.

The Office Action cites column 17, lines 62-64 and column 2, lines 35-38 of the Kronz reference. Neither of these excerpts describes a dynamically updated list of detected nearby devices within the device immediate environment for each device, wherein the list of detected nearby devices maintains a record of devices detected by the detection module to be close in physical space and their locations. Instead these excerpts describe a type-response containing a list of potential device types for which a server may provide service, or the type of service it can provide. This list of Kronz is not a list of devices that are detected to be within a device's immediate environment and the location of the devices. In fact, the Kronz list does not consider proximity in its listed offering. Furthermore, the list of Kronz is a static list. It does not automatically change as another device is detected to enter or exit a devices immediate environment. The type-response of Kronz is transmitted between devices to negotiate service and does not maintain a record of device locations.

As the Kronz reference fails to describe, either expressly or inherently, each and every element of amended independent claim 1, Applicants respectfully submit that the Kronz reference fails to anticipate this claim. Accordingly, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested. Each of claims 2–11 depends, either directly or

indirectly, from independent claim 1. As such, it is respectfully submitted that the Kronz reference fails to anticipate these claims for at least the above-cited reasons. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejection of claims 2–11 as well. Claims 1–11 are believed to be in condition for allowance and such favorable action is respectfully requested.

Independent claim 13, as amended herein, recites a method for facilitating interaction between a device and a device immediate environment. The method includes detecting a participant present within the device immediate environment, maintaining a maintaining a dynamically updated list of detected nearby devices within the device immediate environment for each device, wherein the list of detected nearby devices maintains a record of devices detected to be close in physical space and their locations, and adjusting a device user interface based on user-configured rules set forth in a device authorization module in response to the detection of the participant.

On the other hand, as previously set forth with regard to amended independent claim 1, the Kronz reference describes a logical protocol and a method for facilitating communication between various electronic devices and the sharing of features, functionality and information between the devices. *See, Kronz reference* at col. 1, lines 57–60. It is respectfully submitted, however, that the Kronz reference does not describe, either expressly or inherently, a system including "a dynamically updated list of detected nearby devices within the device immediate environment for each device, wherein the list of detected nearby devices maintains a record of devices detected to be close in physical space and their locations" as recited in independent claim 13, as amended herein. Rather, the list of potential devices referenced in the Kronz reference is a static list of devices that does not depend upon a device's proximity to a

device environment. It does not automatically change as another device is detected to enter or exit a devices immediate environment. The type-response of Kronz is transmitted between devices to negotiate service and does not maintain a record of device locations.

As the Kronz reference fails to describe, either expressly or inherently, each and every element of amended independent claim 13, Applicants respectfully submit that the Kronz reference fails to anticipate this claim. Accordingly, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested. Each of claims 14–22 depends, either directly or indirectly, from independent claim 13. As such, it is respectfully submitted that the Kronz reference fails to anticipate these claims for at least the above-cited reasons. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejection of claims 14–22 as well. Claims 13–22 are believed to be in condition for allowance and such favorable action is respectfully requested.

Independent claim 25 , as amended herein, recites a system for sharing resources among multiple participating devices, each device having a device-specific set of application resources. The system includes a detection module for detecting proximity of a first participating device to a second participating device, wherein proximity of a first participant device to a second participating device is close in physical space, a dynamically updated nearby device list of detected devices within an immediate environment for maintaining a record of devices detected to be close in physical space and their locations, and a configurable resource regulation mechanism for making the device specific application resources from the second participating device available to the first participating device. On the other hand, as previously set forth with regard to amended independent claim 1, the Kronz reference describes a protocol and a method for facilitating communication between various electronic devices and the sharing

of features, functionality and information between the devices. *See, Kronz reference* at col. 1, lines 57–60. It is respectfully submitted, however, that the Kronz reference does not describe, either expressly or inherently, a system including "a dynamically updated nearby device list of detected devices within an immediate environment for maintaining a record of devices detected to be close in physical space and their locations" as recited in independent claim 25, as amended herein. Rather, the list of potential devices referenced in the Kronz reference is a static list of devices that does not depend upon a device's proximity to a device environment, nor is it used for maintaining a record of device locations.

As the Kronz reference fails to describe, either expressly or inherently, each and every element of amended independent claim 25, Applicants respectfully submit that the Kronz reference fails to anticipate this claim. Accordingly, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested. Each of claims 26 and 27 depends, either directly or indirectly, from independent claim 25. As such, it is respectfully submitted that the Kronz reference fails to anticipate these claims for at least the above-cited reasons. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejection of claims 26 and 27 as well. Claims 25, 26 and 27 are believed to be in condition for allowance and such favorable action is respectfully requested.

Independent claim 29, as amended herein, recites a method for facilitating resource sharing between multiple devices. The method includes allowing a user to configure regulation of shared resources between multiple participating devices, maintaining a list of detected participating devices based on proximity within an immediate environment to a first participating device, wherein proximity within an immediate environment is detected to be close in physical space, wherein the list of detected participating devices maintains a record of devices

detected to be close in physical space and their locations, and enabling regulation of device resources based on proximity of a first participating device to a second participating device, wherein regulation includes making device specific application resources of the first participating device available to the second participating device.

On the other hand, as previously set forth with regard to amended independent claim 1, the Kronz reference describes a protocol and a method for facilitating communication between various electronic devices and the sharing of features, functionality and information between the devices. *See, Kronz reference* at col. 1, lines 57–60. It is respectfully submitted, however, that the Kronz reference does not describe, either expressly or inherently, a system including "maintaining a list of detected participating devices based on proximity within an immediate environment to a first participating device, wherein proximity within an immediate environment is detected to be close in physical space, wherein the list of detected participating devices maintains a record of devices detected to be close in physical space and their locations" as recited in independent claim 29, as amended herein. Rather, the list of potential devices referenced in the Kronz reference is a static list of devices that does not depend upon a device's proximity to a device environment and does not maintain a record of device locations.

As the Kronz reference fails to describe, either expressly or inherently, each and every element of amended independent claim 29, Applicants respectfully submit that the Kronz reference fails to anticipate this claim. Accordingly, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested. Each of claims 30 and 31 depends, either directly or indirectly, from independent claim 29. As such, it is respectfully submitted that the Kronz reference fails to anticipate these claims for at least the above-cited reasons. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejection of claims 30 and

31 as well. Claims 29, 30 and 31 are believed to be in condition for allowance and such favorable action is respectfully requested.

Rejections based on 35 U.S.C. § 103(a)

A.   Applicable Authority

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason, or suggestions or motivations found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention. See, *Application of Bergel*, 292 F. 2d 955, 956-957 (1961). Thus, in order "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." *See* MPEP § 2143. Recently, the Supreme Court

elaborated, at pages 13-14 of *KSR*, it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application]." *KSR v. Teleflex*, 127 S. Ct. 1727 (2007).

B.   Obviousness Rejection Based on the Kronz and Srinivasan References

Claims 9, 21 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kronz as applied to claims 1, 20 and 26 above, and further in view of Srinivasan et al., U.S. Patent No. 2003/0037284. The Kronz reference and the Srinivasan reference, whether taken alone or in combination, fail to teach or suggest all the limitations of the rejected claims, as amended herein. Accordingly, Applicants respectfully traverse these rejections, as hereinafter set forth.

Claim 9 depends directly from amended independent claim 1, claim 21 depends indirectly from amended independent claim 13, and claim 27 depends indirectly from amended independent claim 25. Each of claims 1, 13 and 25 was discussed herein above with respect to the Kronz reference. As stated above, the Kronz reference fails to teach a "dynamically updated list of detected nearby devices" as recited in amended independent claims 1 and 13 or a "dynamically updated nearby device list" as recited in amended independent claim 25. It is respectfully submitted that the Srinivasan reference fails to cure this deficiency of the Kronz reference (nor is it relied upon for doing so). Rather, the Srinivasan reference discloses a way for a fault-tolerant server group to automatically resolve an inconsistent mastership situation in which an undesirable number of master server exist. *See, Srinivasan reference*, Summary of

Invention; paragraph [0015]. It is respectfully submitted, however, that the Srinivasan reference does not teach or suggest a "dynamically updated list of detected nearby devices" or a "dynamically updated nearby device list".

As stated in the office action, the Kronz reference does not disclose that the method/system include an arbitration mechanism for resolving disputes between devices having an identical authorization status. Although the Srinivasan reference teaches a system for resolving a multiple mastership situation during recovery, the system of the Srinivasan reference does not permitted the user to determine which server should be the controlling device and the governing rules cannot be changed by the user. Rather, the method described in the Srinivasan reference is determined based on an algorithm with set rules and is invoked automatically. In fact, neither the system of the Kronz reference nor the system of the Srinivasan reference includes a user configurable authorization module comprising an arbitration module for resolving disputes between devices having identical authorization status, as recited in claim 9.

Accordingly, it is respectfully submitted that the Kronz reference and the Srinivasan reference, whether taken alone or in combination, fail to teach or suggest all of the limitations of claims 9, 21, and 27. *See, In re Fine*, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988); *see also*, MPEP § 2143.01. Accordingly, withdrawal of the 35 U.S.C. § 103 rejection of these claims is respectfully requested. Claims 9, 21, and 27 are believed to be in condition for allowance and such favorable action is respectfully requested.

CONCLUSION

For at least the reasons stated above, claims 1-11, 13-22, 25-27, and 29-31 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or jdickman@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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